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# JUSTUS MÖSER'S APPROACH TO HISTORY

A PART OF A DISSERTATION SUBMITTED TO THE FACULTY OF THE DIVISION OF THE HUMANITIES IN CANDIDACY FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

DEPARTMENT OF HISTORY

1932

BY

WILLIAM JOHN BOSSENBROOK

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# JUSTUS MÖSER'S APPROACH TO HISTORY

WILLIAM J. BOSSENBROOK

WHEN Voltaire indicated that the object of his historical study was "to know so far as I can the manners of peoples and to study the human mind; I shall regard the order of succession of kings and chronology as my guide but not as the object of my work"—he presented the general program of the historiography of the eighteenth century.[1] History was to be freed from the "ballast of antiquarian detail" and was in turn to free the human reason from the bondage of theology and superstition. It aimed to reveal the various obstacles and restrictions which had prevented the free expression of reason in the past. The objective of the historian was therefore not to present a description of historical development but to analyze historical phenomena so as to distinguish the incidental from the significant and the transitory from the permanent in terms of the increasing enlightenment of the human reason through the progress of the arts and sciences. This conception of history was directed both against the "erudite annalism" of the seventeenth and early eighteenth centuries and against the older theological interpretation which received its classic expression in Bossuet's great work.[2]

During the second half of the eighteenth century there emerged, particularly in Germany, a conception of history

[1] Quoted in J. B. Black, *The Art of History* (London, 1926), p. 34.

[2] B. Croce, *History: Its Theory and Practice* (New York, 1923), p. 244; E. Cassirer, *Die Philosophie der Aufklärung* (Tübingen, 1932), pp. 292–98.

which represented a departure from the Voltairian point of view. The transition from a type of history in which moral and philosophic reflections with regard to the past played a preponderant role to a conception of historical development which sought its principle of explanation in the process itself was made especially by Winckelmann, Lessing, Möser, and Herder.[3] While the Voltairian school, including such historians as Schlözer, Schmidt, and Spittler, was mainly concerned with the production of manuals and textbooks, it is significant that Winckelmann, Möser, Lessing, and Herder stood outside academic circles and were therefore less influenced by the methods of the old, erudite, annalistic history which had persisted longer in the schools and universities of Germany than elsewhere.[4] In terms of actual historical writing the work of these historians appeared fragmentary and incomplete, certainly as compared with the great achievements of the French and English historians of the Enlightenment. To a considerable extent this was due to adverse conditions in a land where provincialism and particularism were dominant and foreign cultural influences in the ascendancy. They were, however, the pioneers of a national cultural revival in Germany which represented a reaction both against the rationalism of the Enlightenment and against the dominance of French cultural influences.

The role played by Justus Möser (1720–94) in this cultural revival and more specifically in the shaping of a historical attitude of mind is less well known than that of the others. This is principally due to the fact that his career and historical work were definitely circumscribed by the boundaries of the small German ecclesiastical principality, Osnabrück. In it he spent practically the whole of his life, the

[3] See F. Meinecke, *Weltbürgertum und Nationalstaat: Studien zur Genesis des deutschen Nationalstaates* (5th ed.; Berlin, 1919), p. 136.

[4] Eduard Fueter, *Geschichte der neueren Historiographie* (2d ed.; Berlin, 1925), pp. 371–97.

longest period of absence being an eight months' sojourn in England. His principal historical work, the *Osnabrückische Geschichte*, and his numerous essays all reflected particularly the conditions and interests of his local environment.[5]

In the little North German principality of Osnabrück, with an area of about forty-five square miles and a population of about 120,000, medieval political and social institutions had persisted almost unchanged into the eighteenth century.[6] Prince-bishop, cathedral chapter, *Landtag*, independent burghers, free and servile peasantry—all suggested the Middle Ages. The estates had retained much of their political vitality, and there existed a more intense political life than in most of the highly centralized monarchies of Germany. The struggle of the estates with the prince-bishops, some of whom attempted to make themselves absolute, the conflict in interests between the estates, and the rivalry of Protestants and Catholics for public office offered unusual opportunities for the legal talent which was abundant in the principality. Thus there developed in the upper bourgeoisie a juristic patriciate which monopolized the more important offices in the administration of city and bishopric.[7]

The family of Justus Möser had risen to prominence within the circle of this patriciate during the eighteenth century. Möser was therefore destined for a legal career. Following attendance at the universities of Jena (1740–41) and Göt-

[5] Karl Brandi, "Justus Möser," *Preussische Jahrbücher*, CCXXVII (1932), 56; Wilhelm Dilthey, *Gesammelte Schriften* (Leipzig and Berlin, 1927), III, 248.

[6] See Justus Möser, *Sämmtliche Werke*, ed. B. Abeken (10 vols.; Berlin, 1858), I, 321–23. Further citations to Abeken's edition of Möser's works will be made by volume and page only.

[7] O. Hatzig, *Justus Möser als Staatsman und Publizist* (Hanover, 1909), p. 8; Gustav Schöttke, "Die Stände des Hochstifts Osnabrück unter dem ersten evangelischen Bischof Ernst August von Braunschweig-Lüneburg (1662–1698)," *Mitteilungen des Vereins für Geschichte und Landeskunde von Osnabrück*, XXXIII (1908), *passim;* Bruno Krusch, "Justus Möser und die Osnabrücken Gesellschaft," *Mitteilungen des Vereins für Geschichte und Landeskunde von Osnabrück*, XXXIV (1909), *passim;* V, 5.

tingen (1742–43), influential connections and evident capacity contributed to his rapid rise through a series of offices from that of legal representative of the nobility to that of judicial adviser of the Hanoverian government during the minority of Bishop Frederick of York (1763–83).[8] Since he also retained his position as legal representative of the nobility, representing thus both government and estates, he virtually became the ruling force in the administration of the principality.[9] The influence which these multifarious contacts exerted upon Möser are reflected particularly in his publicist labors. From 1766 to 1782 he edited the *Wöchentlichen Osnabrückischen Intelligenzblätter* to which he contributed to the end of his life numerous essays, sketches, dialogues, and letters, later published under the title *Patriotische Phantasien*. The *Phantasien* cover a wide variety of subject matter—serfdom, education, literature, government, art, etc. They portray the interrelationship of law, economic conditions, religion, literature, and art in the state and society of Osnabrück and reveal the realistic and empirical attitude of mind of Möser.

While the gradual development of a distinctly empirical and positive point of view by Möser may be attributed particularly to widening practical experience, the changing in-

[8] The Treaty of Westphalia (1648) had given the bishopric a rather peculiar constitution. It provided that the bishop should be alternately a Catholic prince and a prince from the Protestant house of Brunswick-Lüneburg. From 1724 to 1761 there was a Catholic prince who was succeeded by a representative of the Hanoverian house; that is, the second son of King George III of England, Frederick of York. Leo Körholz, "Die Wahl des Prinzen Friedrich von York zum Bischof von Osnabrück und die Regierung des Stiftes während seiner Minderjährigkeit" (University of Rostock dissertation [1908]), pp. 56–58.

[9] Life by Nicolai in Möser, *Werke*, X, 13–35; fragment of autobiography, *ibid.*, X, 86–88; see also Krusch, *op. cit.*, pp. 270–80, 292, 298; Hatzig, *op. cit.*, p. 16. Concerning the burdens of administration placed upon him, Möser wrote as follows: "Ich stehe bei der hiesigen Regierung, die mit zweien fremden Geheimen Räthen aus Sachsen und Hessen besetzt ist, mutterseele allein, habe also alle Resolutiones anzugeben und zu entwerfen, die sich monatlich über 50 belaufen, und das nimmt mir einen Haufen Zeit weg, ohne was ich in meinen andern Departements thun muss" (X, 167).

tellectual atmosphere in Europe in general, and particularly in Germany, exerted a great influence on him. During his youth both in the home and in the society of Osnabrück he had come under the influence of the rationalism and sentimentalism promoted by the widespread popularity of French literature in early eighteenth-century Germany.[10] In a letter written to a friend in 1785 he especially stressed the successive influence of Marivaux, St. Evremond, Voltaire, Abbé Coyer, and Rousseau on his literary and intellectual development.[11]

While interest in Coyer and especially in Rousseau marked a turning-away from his early sentimentalism and rationalism, they were not the most important formative factors which contributed to that change. Their influence was perhaps more negative than positive; his later essays show a definite reaction against the ideas of Rousseau. The most positive influence came from English literary and intellectual sources which exerted an increasing effect in Germany from the middle of the eighteenth century on.[12] Möser's *Patriotische Phantasien* and his *Osnabrückische Geschichte* both reflected an extensive knowledge and admiration of things English.[13] The widespread interest in English literature, thought, and social and political institutions among the leading men of his day, the political connections of Osnabrück with the Hanoverian

[10] See A. Köster, *Die deutsche Literatur der Aufklärungszeit* (Heidelberg, 1925), pp. 107–9, 142.

[11] He wrote: "Ich hatte meine ersten Schulübungen nach Marivaux gemacht, meinen St. Evremont mehr als zehnmal durchgelesen, und nach französischen Mustern gearbeitet; das machte mich in der Moral zu fein und fast spitzfindig. Nachher studierte ich nach Voltairen, und gab in seiner Manier ein Schreiben über den Character Martin Luthers und seiner Reformation heraus. Allein ich merkte bald, dass seine Manier ihm allein wohl stand, und dass man seinen ganzen Geist haben müsse, um sich nach ihm zu bilden. Eine Zeitlang gefiel mir der Abbé Coyer; und zuletzt zog mich Rousseau ganz an sich" (X, 190).

[12] L. M. Price, *English-German Literary Influences* (Berkeley, Calif., 1919–20), 157–59, 189–97.

[13] A. Wiedemann, "Geistesgeschichtlicher Querschnitt durch Justus Mösers Erziehungsideen" (University of Erlangen dissertation [1932]), pp. 8–15.

house, and Möser's visit to England were the most potent factors which explain his interest in that country. In the semimedieval institutions of his local environment he saw many resemblances to those in England.

Furthermore, Möser's empirical approach, derived from practical experience, had received sympathetic formulation in the thought of such English philosophers as Locke and especially Shaftesbury. Their influence also reached him through Pope, Richardson, and others.[14] Möser showed little interest in and aptitude for philosophy, and his ideas were not set forth systematically. Since they were so definitely conditioned by local environment, it is difficult to determine what in his thought was original and what was borrowed. It was his practical experience which gave unity to his attitude of mind, which was thus very far removed from any mere academic eclecticism.

While Möser followed the intellectual development of the Enlightenment in general in the direction of a more empirical approach, he also shared the opposition of the *Sturm und Drang* to the intellectualism of his age and consequently had a better appreciation of the irrational elements in human behavior. The current of sentimentalism which increased in strength in the eighteenth century, and which influenced Möser through Marivaux, St. Evremond, Richardson, and finally Shaftesbury and Rousseau, was reflected in his early essays. It must be recognized that even Voltaire contended that the passions, enthusiasms, and egotistic impulses of man were essential to the progress of the arts and sciences.[15] To Möser the passions were "beneficent storms," and following Shaftesbury rather than Socrates, who was the hero of the popular philosophers of the time, Möser placed the heart above the mind as the source of virtue.[16] He took issue with

[14] *Ibid.*, pp. 16–21, 47–51; IX, 21. [15] Cassirer, *op. cit.*, p. 143.

[16] IX, 21. He said with regard to the passions: "Ehe die Tugend unsere Schritte lenkte und die Vernunft unseren Pfad bereitete, waren sie da. Wir fühlten Mitleid,

Voltaire in the latter's estimate of Luther as a man in whom a passionate temper and ambition contributed to the sowing of religious dissension. Möser contended that Luther had vitalized religion for the masses, a much greater contribution than to bring new truth to the learned.[17] However, as a historian he tended to regard human nature from the point of view of the realistic statesman for whom passions and sentiments were the plastic materials which he molded to suit the needs of state.

The *Sturm und Drang* or *Geniebewegung* (*ca.* 1765–85) proceeded from the unity of the thinking, feeling, and willing individual to an understanding of the universe as a living organism. It assumed a literary and aesthetic approach toward man and society rather than a scientific and abstract one.[18] While Möser certainly shared this approach and impressed the *Genies* with the vigor and force of his style and with his social and political ideas, in temperament he had little in common with the young enthusiasts of the movement.[19] By the time of the *Sturm und Drang* he had already attained maturity and unity of outlook; he belonged to an older generation, that of Winckelmann, Lessing, and Kant. Most of the *Genies* were afflicted with an inner discord rising out of the conflict between a great enthusiasm for experiencing life and the inability to do so owing to the hampering political and social circumstances which prohibited a life of practical achievement. Since Möser's rise up the ladder had

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ehe die Religion uns lehrte, barmherzig zu sein, und die notwendigen Reizungen der Schönheit erhielten den Beifall unserer Empfindungen, ehe der Verstand ihren Werth untersuchte" (IX, 13).

[17] V, 217, 222, 226.

[18] Köster, *op. cit.*, p. 237; H. A. Korff and W. Linden, *Aufriss der deutschen Literaturgeschichte nach neueren Gesichtspunkten* (3d ed.; Leipzig and Berlin, 1932), pp. 126–35.

[19] As Goethe said, referring to Möser: "Ein solcher Mann imponirte uns unendlich, und hatte den grössten Einfluss auf eine Jugend, die auch etwas tüchtiges wollte, und in Begriff stand, es zu erfassen" (quoted in X, 107).

been facilitated by the existing arrangements in Osnabrück, he had no quarrel with those arrangements. He was too much the practical man of affairs to appreciate the idealism of the *Genies;* their aspirations were too high flown to suit the practical and realistic temper of his mind.[20]

While he shared Rousseau's skepticism with regard to the faith of the Enlightenment in the contribution of the arts and sciences to moral progress, he did so from a different point of view. He wrote:

> It has appeared to me for some time that the war which Rousseau declared against the scientists was the same which a great many candid men had for long waged against luxury; for all sciences whether theological, juridical, medicinal or philosophical are a luxury of the soul which could be most injurious to the countryman and inhabitant of small cities.[21]

It is apparent that Möser was concerned with the welfare of a particular group or class rather than humanity or man in the abstract. He ridiculed a father who, following the example set forth in Emile, "permitted his son to be educated philosophically, with bare feet on the stones and without a hat in the rain."[22] Education was to be practical to fit the individual for his position in society either as noble, merchant, artisan, or peasant. These to Möser were the productive classes as over against the scholars or intellectuals. "Learned men," he declared, "have invented nothing; it was always the artisan and the practical man. . . . . The cry against barbarism is the catchword of the learned quack who wishes to sell his own pills."[23] There was an inherent weakness in the approach of the intellectual "who out of his own window can scarcely survey the nearest field yet desires to construct a world map."[24] As a consequence, the intellectual

[20] Möser said: "Die jungen Genies wissen die gemeinsten Sachen nicht anzugreifen, sie sind allumfassend und allzugewaltig, besitzen Horn- und Stosskraft, wollen die Natur gebären helfen, und können kein Protocoll fassen" (IV, 93). See Hans Baron, "Justus Mösers Individualitätsprinzip in seiner geistesgeschichtlichen Bedeutung," *Historische Zeitschrift*, CXXX (1924), 49.

[21] X, 105. [22] III, 240. [23] V, 36. [24] IX, 166.

overlooked individual differences and attempted to cast people into one mold. This was Möser's main criticism of the eighteenth-century philosophers.

Möser's empiricism, however, with its interest in the individual and the particular was not merely matter of fact; it was joined to an intuitive approach which sought to grasp social and political phenomena as totalities. This recognition that unity must be sought in the interconnection and interrelationship of diverse individual moral, religious, social, and political circumstances not merely was the product of Möser's administrative and juristic experience but was also due to the influence of Shaftesbury's aesthetic and ethical conception of "inward form and structure."[25] Unity was to be sought not in uniformity but in the very multiplicity of social and political phenomena by viewing them as totalities. The tendency toward excessive analysis so prevalent in the eighteenth century merely led one, according to Möser, from one supposition to the other and from part to part. The practical man of affairs did not analyze but grasped the whole as a totality, thus as his experience widened he added total impression to total impression instead of dealing with abstract and clearly defined ideas and rules. Möser illustrated this approach in one of his sketches by comparing it with that of the wine dealer who, in discussing aesthetic appreciation with the members of a literary club, contended that it was simply a matter of experience like a fine appreciation of wine, which is not derived merely from climate or from religion but from "having frequented cellars from youth on and from having tasted many varieties of wine."[26]

This totality conception of Möser's was reflected in his attitude toward the reform movements of his day in morals, education, religion, and social and political matters. He opposed vigorously the setting-up of a general code of ethics

[25] Wiedemann, *op. cit.*, pp. 47–70; Cassirer, *op. cit.*, pp. 424–27.

[26] IV, 11–27.

such as the popular philosophers desired. To establish uniform rules of conduct meant disregarding the infinite diversity of human temperament, character, calling, social position, etc.[27] Fine distinctions in morality did not appeal to him; all that was necessary was for the ensemble to appear right. Like Shaftesbury, he contended that the natural human desire to appear well in the estimation of others had been more productive of good sentiments and conduct than moral purism.[28] Möser likewise upheld Christianity as against the natural religion recommended by the Deists. He doubted whether the latter would provide "chains for rogues, powerful incentives for the weak and timid, solace and comfort in suffering, counterweights against tyrannical princes," etc.[29] Man was a creature who must believe as well as know, and Christianity had developed in response to the diversity of human needs.

Möser also defended the variety of social and political forms characteristic of the semimedieval constitution of Osnabrück against the leveling tendencies which he saw in the policies of enlightened despotism and in the political theory of Rousseau. He compared the state to a pyramid which had its base in the soil and rose gradually from peasantry through middle class and nobility to the princes at the peak.[30] Each estate had its own peculiar functions and needs. He followed Montesquieu in maintaining that an independent nobility constituted the most effective bulwark against despotism. Each city and each peasant community had its own peculiar needs and knew best how to deal with them and should, therefore, be largely self-governing.[31] "In the ideal constitution," he declared, "one descends by gradual stages from the throne downward, each stage having its own kind of honor which remains peculiar to it; the seventh has the same right to its preservation as the second."[32] To promote *Standesehre* Möser advocated the formation of corporations

[27] IV, 43–44. [28] V, 307. [29] V, 231. [30] II, 252. [31] II, 25. [32] I, 115.

such as the medieval guilds.[33] He objected, therefore, to the establishment of legal equality by such measures as the framing of a uniform penal code, by abolishing serfdom, and some of the legal discriminations against illegitimate children. The new legal codes, he contended,

> depart from the real plan of nature which manifests its richness in variety and multiplicity; they prepare the way for despotism which desires to bring everything under a few rules and thus runs counter to nature. . . . . The more simple and uniform the laws, the more despotic and lifeless the state becomes.[34]

To Möser, state and society presented an organic character; in the very diversity of forms he perceived unity, each form having its individual function and thus contributing to the harmony of the whole. Reforms were not to be made according to abstract principles but by careful adjustment to changing conditions, by meeting each need as it arose. Laws and institutions should therefore develop out of the historical experience of a people; hence, Möser's insistence upon the preservation of custom and tradition which represent continuity of development.

Möser's interest in the conservation of the existing social and political setup determined to a considerable extent his conception of historical development. He was concerned with demonstrating that social and political forms were rational responses to changing needs and that, when they had once become a part of the body politic, they could not be ruthlessly severed from it without endangering the structure as a whole. The body politic did not represent a mere mechanical unity whose parts might be changed at will; it adjusted itself as a whole to changing needs in the same manner that the human organism developed new skills and capacities. He contended that

> one can demand from the body politic as from the human body not only normal capacities but also artistic or technical skills; these can be de-

[33] See I, 373. [34] II, 21, 22.

veloped only if one begins with the child and thus gradually brings them to perfection. No skill can be created at once; it is easier to make a cripple out of a stiff old man than a rope dancer.[35]

The significant feature of Möser's approach to history was that the totality conception enabled him to go beyond the annalistic point of view peculiar to most of the contemporary historians of German constitutional development.[36] Mascov and Bünau were content with presenting noteworthy occurrences as the substance of historical development. Pütter contended that "historical occurrences were like the links in a chain, varied in importance according to the degree of influence exerted upon the whole."[37] This point of view was the product of an analysis of constitutional development as a series of individual acts of monarchs and princes. Möser's comment on Pütter's work was that "it might be compared to a snake whipped into a hundred pieces, the portions of whose body are dragged along merely by virtue of the fragments of skin which connect them."[38] In its place he advocated "history in the form of an epic" in which great contending forces were presented.[39] In the beginning of the history of a country

[35] V, 204.

[36] Viz., Johann Jakob Mascov (1689–1761), *Geschichte der Teutschen bis zu Anfang der Franchischen Monarchie* (Leipzig, 1726); see Waldemar Goerlitz, "Die historische Forschungsmethode Johann Jacob Maskovs," *Leipziger Studien aus dem Gebiet der Geschichte*, VII (1909), 1–70; Graf Heinrich von Bünau (1697–1762), *Genaue und umständliche Teutsche Kaiser- und Reichshistorie* (Leipzig, 1728–43); Johann Stephan Pütter (1725–1807), *Teutsche Reichsgeschichte in ihrem Hauptfaden entwickelt* (Göttingen, 1778).

[37] Pütter, *op. cit.*, p. iv.

[38] Further, this type of historical narrative "wird immer wechselsweise steigen und fallen, und oft seine Verbindungen und Uebergänge so kümmerlich suchen müssen, dass auch das Colorit eines Schmid's in seiner Geschichte der Deutschen nicht hinreicht" (IV, 152). Michael Ignaz Schmidt (1736–94) was professor of German *Reichsgeschichte* at Würzburg and Vienna. He was the author of a *Geschichte der Deutschen* (1778 ff., 1785 ff.) extending to about the middle of the seventeenth century. He followed in the footsteps of Voltaire and Robertson. According to Fueter, he was "der erste deutsche Historiker der Aufklärung, der sich an das grosse Publikum wandte" (*op. cit.*, p. 376).

[39] V, 76–79.

certain great forces were arrayed against one another. Depending upon peculiarities of land and people, they produced a form of government; for example, monarchy, democracy, or republic. These attained to a certain completion or perfection then weakened and declined. Möser noted that in France the monarchy was thus far victorious, in England the nobles and freeholders, and in Germany the bureaucracy (*Kronbedienten*). The development of each presented a historical whole within which there were periods which, taken by themselves, also assumed the form of epics. A period should therefore not be made to coincide with the life of a dynasty, such as was the practice of the contemporary writers of *Reichshistorien*, but should include an entire constitutional transformation. Periodization according to dynasties and the reigns of emperors and kings might suffice, Möser thought, for the student who needed a clear sense of chronological order; but it would not satisfy one who had a feeling for design and form.[40] Just as Winckelmann had written a history of Greek art rather than a history of Greek artists, Möser would write a history of a constitution rather than one of rulers and lawmakers.[41]

The changes in the German constitution can be understood only, Möser further contended, if we trace the history of the original contract on which it was based. The association formed under the original contract resembled, he assumed, a commercial company. The first shareholders were the "common landowners." Later, owing to changing economic conditions, the holders of money capital were admitted to the "state company." The contractors were interested not merely in the guaranty of abstract human rights but in the protection of a real interest; that is, property, because it was the basis of their independence and freedom.[42]

[40] It was even a poor pedagogical device for "der Hofmann, der immer erst einen langen gothischen Klostergang durchwandern soll, ehe er in das Cabinet des Prälaten kommt, verliert oft unterwegens seine best Laune" (IV, 149).

[41] Fueter, *op. cit.*, p. 390; Dilthey, *op. cit.*, p. 260. [42] V, 177–203.

Möser justified the assumption that the original contract was based upon the "liberty and property" of the "common landowner" by the contention that it served the historian in the same way that the assumption of a straight line served the mathematician. All historical transformations were to be regarded as approaches to or departures from this ideal line.[43] He assumed, therefore, that in the original contract certain fundamental principles of the political and social order were established for all time. These principles served as a norm for evaluating later constitutional changes and as a co-ordinating factor in giving all a structural unity and an inward form.

Möser's interest in the past and particularly in the Middle Ages was also determined by antiquarian and humanistic interests. While still under the influence of Gottsched, he had contributed to the latter's *Neuen Buchersaal* excerpts from *Der Ritter St. George in einem Aufzuge* by a certain Reinbot von Dorn. At the time he proposed publishing a general collection of medieval German poetry up to the end of the fifteenth century, but lack of leisure prevented the realization of this ambition.[44] Möser's interest in medieval literature was shared by Herder, Goethe, and many others of the *Sturm und Drang*. The popularity of MacPherson's *Ossian* and Percy's collections of popular poetry revealed the increasing interest in the literary heritage of the Middle Ages.[45] This "rediscovery," which began in the eighteenth century and reached its culmination in the romantic movement, represented in Germany a reaction against pseudo-classicism, against the dominance of French culture and the rationalism of the Enlightenment.

[43] VII, vi.

[44] X, 205–7. See also H. Schierbaum, "Justus Mösers Stellung in den Literaturströmungen während der ersten Hälfte des 18. Jahrhunderts" (University of Münster dissertation [1908]), pp. 30–33.

[45] Price, *op. cit.*, pp. 158–59; G. Salomon, *Das Mittelalter als Ideal in der Romantik* (München, 1922), pp. 16–21; P. Joachimsen, *Vom deutschen Volk zum deutschen Staat* (2d ed.; Leipzig and Berlin, 1920), p. 42.

A landmark in the revaluation of the Middle Ages was the *Blätter von deutscher Art und Kunst*, which Herder issued in 1773. In it Herder discussed *Ossian*, the popular poetry of ancient peoples, and Shakespeare; Goethe dealt with the cathedral of Strassburg; and Möser provided a portion of the *Vorrede* to his *Osnabrückische Geschichte*. Herder saw reflected in the popular poetry of the Middle Ages the old German spirit whose revival was essential to the creation of a German nation; a people must, he thought, develop its own peculiar qualities by drawing upon its past.[46]

Möser also saw the true German national spirit reflected in early Germanic times. In a review of F. K. von Moser's *Von dem deutschen Nationalgeiste* (1765) Möser contended that Moser was inclined to see nothing but "princes and servants" in Germany and that his work should rather be entitled "The Spirit of the German Courts."[47] At court, he contended, one will not find the patriot but only the "hired scholar, the cringing lackey and the obsequious courtier."[48] He shared the skepticism of Lessing and Herder as to the existence of a German nation.[49] Where is it to be found, he asks?

> Certainly not at the courts; in the cities one finds only mistaken and damaged copies; in the army, trained machines, and in the country, oppressed peasants. The time when each Frank and Saxon cultivated his own patrimony, defended it in person and thus had the right of attending the national assembly . . . . could reveal to us what a nation is.[50]

In reply to Frederick the Great's *De la littérature allemande* (1780), in which he had made very disparaging remarks as to German literature and had suggested that turning to French models might have a salutary influence, Möser contended that a great literature must develop out of great national and heroic experiences. These were lacking in Germany because

[46] Salomon, *op. cit.*, pp. 23–31; Joachimsen, *op. cit.*, pp. 43–45.

[47] IX, 242.

[48] IX, 243.

[49] Meinecke, *op. cit.*, p. 30.

[50] IX, 241.

there was no active political life and, therefore, no national feeling. "The State," he said, "goes its way machinelike under the guard of standing armies; we seek honor almost wholly either in service or in learning" and "there is no Curtius among us who will cast himself into the abyss for the maintenance of the imperial system."[51] Frederick's achievements in the Seven Years' War, he pointed out, had contributed greatly toward arousing a national spirit in Germany.[52] Furthermore, the literary achievement of the English was much the greater and more deserving as a model. The French presented "the way of uniformity and poverty in art, expressive of a refined taste and the so-called good tone." On the other hand, the English way was "the way to multiplicity and variety which the Almighty Creator has opened to us."[53] In England the humblest individual made the general welfare his concern, and satires, comedies, and even sermons were concerned with state affairs.[54] He admired the English constitution because in its parliament he saw a guaranty of freedom and the representation of property. He agreed with Montesquieu that the Anglo-Saxons had brought this spirit of freedom with them from the German forests.[55]

Möser's interpretation of the constitutional development of Germany, and in particular of Osnabrück, was determined therefore by the tradition of old Germanic freedom. The fundamental idea of this tradition was that political freedom was peculiarly the heritage of a particular group of peoples—that is, the Germanic group—and that this Germanic freedom was derived from the primitive German state. In the seventeenth century Conring, the historian of law and constitutional development, decisively broke with the doctrine of the *translatio Imperii;* that is, the transference of the empire from the Romans to the Germans. The old Roman Empire, he contended, had been destroyed by the Germanic peoples, and Charles the Great had acquired the imperial

[51] IX, 139. [52] See IX, 156. [53] IX, 146. [54] III, 90. [55] VI, 29.

crown by force; it was not conferred either by the papacy or the Roman people. Conring also assumed that the original Germanic states were democratic but that continued wars had introduced aristocratic and monarchical elements.[56] Montesquieu gave new meaning to the conception of Germanic freedom. He contended that there was a natural urge toward freedom in primitive peoples which was peculiarly expressed in the old Germanic institutions. The English constitution with its division of powers was based on a conception of freedom which went directly back to early German times. In other European countries he saw mixed constitutions historically the product of the admixture of feudal and monarchical elements to the early Germanic institutions.[57] The influence of these ideas, especially those of Montesquieu on Möser, is particularly evident. In opposition to the great bureaucratic and military monarchies of his day his ideal was that of a state in which free self-determination was expressed without a great state machine or organization. This state he discovered particularly in early Germanic times, which he called the "golden age."[58]

There existed for Möser a definite link with the early Germans in the Saxon peasantry of his own day. He was of the opinion that Tacitus' description of the early Germans still applied in the main to the peasantry of Osnabrück.[59] It is probable that the "innate and rock-ribbed conservatism" of this peasantry in clinging to ancient customs and to a particular plot of land suggested the core of his theory of the contract that citizenship must be based upon some real factor, particularly land, if the state was to have solid foundations. Also, it may be said that the conservative political instincts of this Saxon peasantry were reflected in Möser. Even as they had opposed in the early Middle Ages feu-

[56] E. Hölzle, *Die Idee einer altgermanischen Freiheit vor Montesquieu* (München and Berlin, 1925), pp. 34–40.

[57] *Ibid.*, pp. 105–12. [58] VI, x; V, 85. [59] IX, 204, 208–9.

dalism, truce of God, *ministeriales*, and outsiders such as Swabians, Bavarians, Flemings, and others, so Möser opposed absolutism, humanitarianism, bureaucracy, and the dominance of French culture.[60]

Like Rousseau, he saw in a free peasantry the core of the nation. The country and not the city, as he pointed out again and again, was the source of the vitality of a nation.

> The social pyramid [he contended] tends to decay first at the peak. The higher one goes the more one finds weakness and evil; the sons of princes degenerate early in order that their children may not become a burden to the state; the young nobles follow the example of their superiors and it is generally said that great men rear bad children. Health, diligence and strength are continually rising from the bottom toward the top; these iron virtues of the lower portions of the pyramid daily push multitudes of persons toward the peak where they die and fall off like decayed branches; the great metropolis is continually being populated by the solid rural classes.[61]

A real history of Germany should therefore concern itself with the changing fortunes of the "common landowners." "The history of Germany," Möser contended, "would acquire a new significance if we viewed the common landowner as the real body of the nation and followed his fortunes, regarding both higher and lower servants as either good or bad accretions to that body." His criticism of the German history previously written and particularly exemplified in the current *Kaiser- und Reichshistorie* was that it was too much concerned with the "life and activities of the physicians . . . . without thinking of the ailing body." "The influence of laws and customs, virtues and faults of rulers, bad and good measures, commerce, money, office, nobility, language, opinion, wars and alliances" on the "common landowner" particularly as they affected his "liberty and property," were to be the theme of his history.[62] The history of the arts and

[60] See James Westfall Thompson, *Feudal Germany* (Chicago, 1928), p. 182.

[61] II, 252. In another connection he made the following statement: "Zu viel Fürsten, zu viel Adel, zu viel Gelehrte sind der Ruin des Staates" (V, 37).

[62] VI, ix–x.

sciences was of importance to Möser, in contrast to Voltaire, only in so far as it had an immediate influence upon constitutional development.[63]

It was generally assumed by constitutional historians of the seventeenth and eighteenth centuries that the freedom enjoyed by the early Germans was, in the words of Bünau, that of "unbridled license."[64] Möser, however, attributed to the early Saxons the tendency to form associations such as the *Mark* and *Gesammtbürgschaft* or *Mannie*. In the formation of the state, he contended, "they followed the same plan" which they had followed in the formation of the other associations.[65] The implication was that all associations including the state were of the same species and were constructed contract fashion in an ascending series with the state as the culmination. He thus proposed a theory of corporative association and political pluralism which went back to Althusius and received more complete formulation later by Stein and especially by Gierke.[66] Möser, however, thought of these associations in terms of a commercial company—that is, voluntary and easily dissolvable—rather than as corporations having each a distinct personality or *Gesamtgeist*.

Möser's corporative conception as applied to early German constitutional development represented a reaction both against the omnicompetent state of the great bureaucratic and military monarchies and against the individualism of the natural law theories of his age. The isolated individual as conceived by Rousseau would be absolutely helpless, and the subject of a despotic monarch lacked spirit and energy.[67] He emphasized particularly the lack of compulsion involved in

[63] VI, xxii. [64] Hölzle, *op. cit.*, p. 114. [65] VI, 37.

[66] See Otto Gierke, *Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorien* (2d ed.; Breslau, 1902), pp. 256–63.

[67] He said: "Der Staat, worin der König ein Löwe und alle übrigen Einwohner Ameisen sind, wird niemals einige Reizung für mich haben; nur der, worin man aus der Hütte zum Throne auf sanften Stufen gelanget, und nächst dem Könige noch Männer sind, die Rechte haben" (I, 25).

the formation of each association. The associations were formed in response to some economic or political need, and, although to be excluded involved a social stigma, each free landowner entered of his own free will.[68] The activity expressed in and through these associations gave a dynamic character to the body politic. The state, he contended, should be in a continual condition of fermentation in order that the happiness and welfare of its citizens might be promoted.[69] Only through associations which were the expression of self-help and collective action could the nation achieve greatness and guard against despotism. According to Möser, the later Middle Ages, the period of the *Faustrecht* and of the *Hansa*, was the great age of the development of corporations in the cities, of leagues of cities and princes, of leagues for the maintenance of the *Landfrieden*, etc. The *Faustrecht* represented to him "a work of art of the most perfect style," and he referred to the period of the greatness of the *Hansa* as "the golden age of German commerce."[70]

While Möser believed that certain early German institutions, such as the peasant associations for the common and peaceful utilization of wood and meadow, had persisted in Osnabrück since early Germanic times, he also recognized feudal and monarchical elements. This mixed constitution was the product of the conflict between the principle of association based on "liberty and property" and the tendency toward monarchy.[71] Like Montesquieu, he attributed this tendency toward monarchy especially to large aggregations of peoples. Numerous wars had led to the formation of great confederations among the early German tribes and had laid the basis for the extensive empire of Charles the Great.[72]

The "liberty and property" of the early Germans or Saxons

[68] VI, 37. "Die Verbannung war auch hier Alles; und jeder Staat war oder hielt sich nicht weiter berechtiget."

[69] III, 89.

[70] I, 340, 395.

[71] VI, xxi.

[72] VI, 106, 107, 110.

were particularly represented in two institutions—the national assembly and the *Heerbann* or national militia. Both institutions were based on the free co-operation and equal participation of the free landowners. Möser recognized, however, the existence of inequalities in the early German state. There were the various classes of dependents who did not possess a free portion of land and were in the service and under the protection of the free landowners. Also, there were the nobles who were distinguished from ordinary landowners by greater possessions and by the valuable privilege of maintaining a war band. Möser ascribed to this last institution a most important role. Out of it there grew a military organization based on service to an individual which came to compete with the *Heerbann*, based on free ownership of land. He contended that the "consequences of this dominated the whole course of history."[73]

The most important factor in the transformation of the old Germanic constitution was, therefore, the decline of the *Heerbann*. The old *Heerbann* had been intended only for the defense of the fatherland from external foes. With the increase of wars of an offensive and extended character, especially under Charles the Great and his successors, military enterprises were more and more carried out by the war bands. As a consequence, more and more the old "honor" based on the contribution of the free landowners toward the common defense disappeared and was displaced by "honor" based on service. This transformation had the greatest social significance. Since the mass of free owners with the decline of the *Heerbann* no longer contributed to the general defense in person, they were subjected to various dues and taxes which tended toward servile tenure and serfdom. Many who showed capacity for and were inclined toward military enterprise entered the service of the emerging military aristocracy and, as the vassals and *ministeriales* of the latter, acquired

[73] VI, 55.

lands which they held under various forms of feudal tenure.[74] With the breakup of the Carolingian Empire public authority was absorbed by the great lay and ecclesiastical landowners. As a consequence, public authority gradually assumed the character of a superior type of private property which stood over and above land and developed later into territorial sovereignty.

The free ownership of land was thus transformed into a multitude of feudal and manorial relationships beginning with the fiefs of the rising military nobility and extending to the various forms of peasant servile tenure. The original "liberty" or self-government based on free ownership of land became transformed as a consequence into a complicated system of relationships based on protection and service.[75] Later, as feudalism no longer sufficed for the military needs of the rising territorial powers, mercenary and standing armies came into existence. Military service thus ceased to be a matter of defense of home and land and became a mere matter of venal interest. As a consequence, new sources of revenue had to be discovered which led to the modern system of taxation and made necessary a new constitution under which each individual became a citizen by virtue of the fact that he was a subject.

It is apparent that the general character of German constitutional development as interpreted by Möser was determined by his conception of the state as a mercantile association, more specifically as a joint-stock company. The state as one among various associations had as its specific object the defense of the property and persons of its members. The basis of membership was at first landed property, later the holders of money capital were admitted. Increases in population, restrictions on migration, and growing trade and commerce led to changes in membership and in the character of the obligations required. By virtue of the emphasis he placed

[74] See VI, 68–71, 316–32.

[75] VI, xi–xvi; see also 192–219, 285–302.

on property and its relationship to public burdens, Möser was able to bring all aspects of the life of the community into one great structural synthesis revealing the interaction of political, social, and economic factors.

In this synthesis all the phases of the life of the community—religion, art, and literature as well as agriculture and commerce—were conceived as subordinate to the needs of the state association. To be really pragmatic Möser felt history should teach politics; that is, it should present the natural history of the original contract on which the state association was based and not the growth of ideas or the development of the arts and sciences. He opposed using history as a vehicle for communicating moral truths as the educators of the Enlightenment, for example, Basedow, desired.[76]

The rationalistic element which persisted in Möser's approach to history is thus apparent. He viewed religious institutions and customs as the creation of rulers, lawgivers, and priests not to deceive the people but to meet particular political and social needs.[77] Religion did not appear in his historical writing as an independent force; he regarded it almost exclusively as a political instrument or adjunct.[78] Institutions and laws, therefore, were the product of deliberate adjustment to changing needs. Möser was inclined to see in the figures of history the reflection of his own ideal of the intelligent, realistic statesman who abhorred all general theories of human rights and abstract principles of conduct. He approached old customs and institutions with the idea that the "ancients were after all not fools," which implies that he attempted to place himself in the position of the fathers to determine what reason moved them to create this or that

[76] X, 117. [77] See discussion of the religion of the early Germans (VI, 42–50).

[78] This is evident in the following statement: "Die Noth [hat] vernünftige Menschen in ihren Erfindungen geleitet. Und welche Erfindungen? Ruhe, Freundschaft, Liebe und viele andre gesellschaftliche Tugenden zu besondern Pflichten zu heiligen, eine Gottheit da einzuflechten, wo sie fühlten, dass die natürlichen Bande reissen möchten" (V, 247).

institution.[79] He was aware that each age had its own peculiar problems and appropriate solutions not to be measured merely by the yardstick of the present.

Möser was empirical and realistic in avoiding the general practice of the historians of the Enlightenment of introducing moral and philosophic reflections with regard to historical facts. Furthermore, his administrative experience led him to regard institutions from the point of view of their mutual dependence and their practical working rather than of their conformity to an abstract set of principles. He evaluated events on the basis of their appropriateness in a consistent whole as well as on the basis of the evidence of the sources.[80] Since the latter provided only fragmentary information with regard to the early development of Germanic society, it was often necessary to give support to the constitutional edifice by hypothetical buttressing. By so doing, satisfactory form and design could be given to that structure. It was this emphasis upon unity of form which represented the most original feature of Möser's approach to history.

Möser exerted a varied influence on the historians of the late eighteenth and nineteenth centuries—a fact which may be attributed in part to the fragmentary character of his writings and in part to the form they assumed, a form which appealed very little to academic groups. It was also due to the diverse intellectual currents which affected the development of nineteenth-century historiography.

The historians of the historical school of jurisprudence, especially Eichhorn and Savigny, were attracted by Möser's veneration of early Germanic institutions and his recognition that laws and institutions should be gradually adjusted to changing needs rather than fundamentally revised on the basis of abstract principles.[81] Riehl, the founder of the later

[79] V, 144. [80] See VI, 69.

[81] Friedrich Carl von Savigny, *Vom Beruf unsrer Zeit für Gesetzgebung und Rechtswissenschaft* (3d ed.; Freiburg, 1892), pp. 9, 69, 78; R. Stintzing and E.

*Kulturgeschichte*, praised Möser for his revelation of the unique character of the common man. Riehl's historical genre, which resembled many of Möser's *Phantasien*, described the more homely and picturesque features of the life of peasants and lower bourgeoisie.[82]

It was a romantic interest in early German and medieval institutions and customs and in folkways in general that accounted for the interest in Möser taken by the founders of historical jurisprudence and of *Kulturgeschichte*. However, it was his historical realism which made the greatest impression upon Niebuhr. Certain similarities in background undoubtedly contributed to a similarity of approach. Niebuhr's childhood and youth were passed among the free peasantry of the province of Dithmarsch; he spent several years in the public service of Denmark and Prussia, interrupted by a long visit to England. In striking contrast to his antipathy for the French was his admiration of the English and of the English constitution. Just as Möser had attempted to reconstruct the early Germanic constitution on the basis of analogies derived mainly from contemporary conditions in Osnabrück and from English constitutional development, so Niebuhr drew on the latter and on agrarian conditions in the Dithmarsch in the reconstruction of the early Roman constitution. Although both placed the constitutional development in the foreground, they did not exaggerate the importance of political and legal forms, as the later liberal historians did, but gave particular attention to the influence of economic and social factors. For Möser and Niebuhr the influence of the changing social texture was more important than a specific national character or folk soul which was the determining factor in

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Landsberg, *Geschichte der deutschen Rechtswissenschaft* (3 vols.; Munich and Leipzig, 1880–1910), Part II, p. 497; Gunnar Rexius, "Studien zur Staatslehre der historischen Schule," *Historische Zeitschrift*, CVII (Berlin, 1911), 525.

[82] W. H. Riehl, *Die Naturgeschichte des Volkes als Grundlage einer deutschen Sozial-Politik* (3 vols., 9th ed.; Stuttgart, 1894), I, 12–14; Fueter, *op. cit.*, pp. 567–69.

constitutional development in the estimation of the founders of historical jurisprudence.[83]

Möser's approach to history, therefore, anticipated the two dominant tendencies of nineteenth-century historiography—the romantic veneration of old institutions and practices and the realist attempt to explain their development in terms of concrete and positive causes.[84]

[83] Barthold Georg Niebuhr, *Römische Geschichte* (3 vols.; Berlin, 1873), I, 251–77, II, 150; Moriz Ritter, *Die Entwicklung der Geschichtswissenschaft* (München and Berlin, 1919), pp. 318–20, 331; Fueter (*op. cit.*, pp. 468–70) especially emphasizes Möser's influence on Niebuhr, whereas Ritter (*op. cit.*, pp. 314–32) places greater emphasis on the independence of the latter's approach and conclusions.

[84] Friedrich Meinecke's *Die Entstehung des Historismus*, with its penetrating chapter on Möser's historical approach, and Peter Klassen's comprehensive study of Möser did not become available until after this essay had been written. Their interpretation of Möser's historical approach does not differ in the main from that presented here.